

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

Bradley Sogge, )  
Petitioner, )  
v. ) Case No. 3:16-cv-408  
Chad Pringle, ) **REPORT AND RECOMMENDATION**  
Respondent. )

On November 23, 2016, Petitioner Bradley Sogge (Sogge), an inmate at the James River Correctional Center, submitted a habeas petition under 28 U.S.C. § 2254 and an application for leave to proceed in forma pauperis (IFP). (Doc. #1; Doc. #2). A certificate of inmate account and assets from the correctional institution shows that as of November 10, 2016, Sogge had \$86.95 in his Inmate Account. (Doc. #1-1). In the six months preceding that date, Sogge's average balance in his Inmate Account was \$22.99 and the average of the monthly deposits to the Inmate Account was \$137.73. Id.

The court determined that Sogge had sufficient funds to pay the \$5.00 filing fee for this action and denied his IFP application. (Doc. #4). The court permitted Sogge until December 12, 2016, to pay the filing fee. Id. The court cautioned Sogge that his failure to make the payment would result in either an order or recommendation that his habeas petition be dismissed. Sogge has not paid the filing fee, and the time to do so has passed.

Sogge's habeas action was directly assigned to the undersigned magistrate judge in accordance with 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73. The Clerk mailed Sogge two notices of direct assignment and twice requested that he return a form indicating whether he would consent to the assignment of his case to a magistrate judge

or request reassignment to a district judge. (Doc. #3; Doc. #5). Sogge failed to return either form, and has had no communication with the court since he submitted his habeas petition and IFP application.

Accordingly, it is **RECOMMENDED** that Sogge's habeas petition be **DISMISSED** without prejudice for failure to pay the filing fee.

Dated this 5th day of January, 2017.

/s/ Alice R. Senechal

Alice R. Senechal  
United States Magistrate Judge

**NOTICE OF RIGHT TO OBJECT**

Pursuant to Rule 72(b), Federal Rules of Civil Procedure, and District of North Dakota Local Court Civil Rule 72.1(D)(3), petitioner may object to this Report and Recommendation by filing with the Clerk of Court no later than **January 20, 2017**, a pleading specifically identifying those portions of the Report and Recommendation to which objection is made and the basis of any objection. Failure to object or to comply with this procedure may forfeit the right to seek review in the Court of Appeals.